

## **TITLE 326 AIR POLLUTION CONTROL BOARD**

### **LSA Document #01-249**

#### **SUMMARY/RESPONSE TO COMMENTS FROM THE THIRD COMMENT PERIOD**

The Indiana Department of Environmental Management (the department) requested public comment from August 1, 2001, through August 22, 2001, on the department's draft rule language. The department received comments from the following parties:

Accra Pac Group	(APG)
Batesville Manufacturing, Inc.	(BMI)
Bethlehem Steel Corporation	(BSC)
Cinergy Power Generating Services	(CIN)
Citizens Gas & Coke Utility	(CGCU)
Citizens Thermal Energy	(CTE)
Countrymark Cooperative, Inc.	(CCI)
Eli Lilly and Company	(ELC)
Essroc Cement Corporation	(ECC)
Ferro Corporation	(FC)
General Cable Corporation	(GCC)
GE Plastics Mt. Vernon, Inc.	(GEP)
Hill-Rom, Inc.	(HRI)
Indiana Electric Utility Air Work Group	(IEUAWG)
Indiana Environmental Institute, Inc.	(IEI)
Indiana Manufacturers Association	(IMA)
Indiana Municipal Power Agency	(IMPA)
Indiana Petroleum Council	(IPC)
Indianapolis Coke	(IC)
Kimball International	(KI)
Knauf Fiberglass GmbH	(KFG)
National Starch & Chemical Company	(NSCC)
National Steel Corporation	(NSC)
NiSource	(NiS)
Quemetco, Inc.	(QI)
Richmond Power & Light Company	(RPL)

Following is a summary of the comments received and the department's responses thereto.

## GENERAL

*Comment:* The department has provided insufficient time for public comment after the public meeting announcing changes to the preliminarily adopted language, and therefore should extend the public comment period. Although the rule was preliminarily adopted April 12, 2001, the department did not hold a public meeting to discuss additional changes until August 14, just eight calendar days prior to the August 22, 2001, comment deadline. (BSC)(CCI)(ECC)(GCC)(QI)

*Response:* According to IC 13-14-9, Adoption of Administrative Rules, two (2) public hearings are required before the Air Pollution Control Board and two (2) official comment periods for documents published in the Indiana Register are needed to final adopt a rule. A third comment period at least twenty-one (21) days in length is required if the rule language preliminarily adopted by the board is substantially different than the draft rule language published in the Second Notice of Comment Period. The public meeting on August 14, 2001, was in addition to the statutory requirements, but was conducted to provide public discussion of outstanding issues. The department also provided a draft of the rule to be presented to the board for final adoption to any interested person and solicited informal comment. Comments submitted outside the official comment periods are always considered, but no official response is required.

*Comment:* To develop an appropriate chemical emissions reporting policy, there are two general principles: 1) the department needs more data from regulated sources to answer specific public policy questions about air emissions of certain parameters, and 2) the burden on the regulated sources should be as small as possible while achieving those specific objectives. The objectives of the state agency obtaining emissions information are valid but the mechanism of obtaining truly useful information needs modification. (IEI)

*Response:* Through formal workgroups, informal public meetings, and meetings with various stakeholders, the department has solicited information to modify the proposed rule. The draft rule for final adoption is tailored to the department's goals while reducing the burden to sources.

*Comment:* If a new rule is adopted, submittal of false information should cause a violation of the rule only where the submittal is knowing or intentional, and the rule should clarify that it will not be a violation to submit emissions based on estimates that are later shown to be inaccurate if the estimates are made in good faith. (BSC)(CCI)(ECC)(GCC)(IMPA)(KFG)(NSC)(QI)(RPL)

*Response:* By signing the certification the responsible official proclaims that the information in the emission statement is, "based on reasonable estimates using data available to the preparers and on reasonable inquiry into records and persons responsible for the operation of the source [and is] true, accurate, and complete". If emission estimation techniques change and submitted estimates are later determined to be incorrect, then a violation would not occur since the new information would not have been available to the preparers at the time of submittal.

*Comment:* We have concern about how this emissions inventory data will be used internally by the department and how this data will be made available to the public. When the emissions inventory data is publicized, it should be made clear that this data is for emissions inventory purposes only and that the data represents the reasonable estimates based on available data. (CGCU)(CTE)(IC)

*Response:* That is the current practice and the department will continue with that practice.

## **APPLICABILITY**

*Comment:* Federally enforceable state operating permit (FESOP) sources that are not currently required to report emissions data should not be required to report under the proposed amendments. One of the few benefits of being a FESOP source in attainment counties is the fact that annual emissions reports are not required. If the primary purpose of requiring emissions reporting for FESOP sources is to improve the quality of the comprehensive emissions inventory for U.S. EPA, then it would be a better use of resources for the department to take the data provided in the periodic FESOP reports and convert it into emissions data for the comprehensive inventory. (ELC)

*Comment:* The department's concern that U.S. EPA methodologies for estimating emissions from FESOP sources results in overestimations of the source's impact on air pollution is illogical. Those methodologies are the only ones available and a source would have to use them for any emission reporting to any regulatory agency. (FC)

*Comment:* There is an apparent confusion between compliance reporting and emissions reporting. Compliance reports cover a facility's compliance with each section of its permit and does not provide emission reporting. The department underestimates the additional burden for sources to convert the compliance reports that FESOP sources currently submit into reportable emissions information. Any additional emission reporting will constitute an additional financial burden on an operation in the State of Indiana. (FC)

*Response:* The department recommends that the board not adopt the proposed broad FESOP applicability requirement because an analysis of FESOP emissions indicates that they are a small portion of the emissions inventory. However, FESOPs are subject to the department's authority to request emissions information in section 5.

*Comment:* Comments were submitted about separating Elkhart County from St. Joseph County and classifying Elkhart County as an ozone attainment area. The department's reply seems to be non-responsive on these specific points. Since the counties are considered separate metropolitan statistical areas and since no ozone standard exceedances were observed in Elkhart County in 2000, can the separation and classification of Elkhart County as attainment be completed? (APG)

*Response:* The department recommends that the board final adopt language that only lists counties currently in nonattainment with the 1-hour ozone standard to determine applicability thresholds. Once nonattainment designations have been made for the 8-hour ozone standard the emission reporting

rule will be revised to include the additional counties.

## **COMPLIANCE SCHEDULE**

*Comment:* If a new rule is adopted, we support the department's proposal that the first year that the rule would cover would be 2002, not 2001.

(BMI)(BSC)(CCI)(ECC)(GCC)(HRI)(IMPA)(KFG)(QI)(RPL)

*Response:* Since the rule will not be effective until 2004, the rule language is revised to report pollutants in 2004 for the calendar year 2003.

*Comment:* If a new rule is adopted, we support changing the reporting date from July 1 to August 1. This change would ease the burden of sources' reporting requirements, and would not harm the good of the rule. (BMI)(CCI)(GCC)(HRI)(QI)

*Comment:* The department should consider changing the emission report date for maintenance counties to May 15. This moves the report out of April when the first quarterly reports are due, yet gets the department the information in time to complete their regional reports. (CGCU)(CTE)(IC)(NSCC)

*Comment:* If a new rule is adopted, we object to the compliance reporting date of April 15 for large sources. The current rule will require large sources to basically complete their TRI report almost three months earlier than required by federal rule. We support changing the compliance dates to later reporting dates to reduce the administrative burden. (BSC)(ECC)

*Comment:* We are encouraged by the department's statement at the August 14, 2001 meeting on this rulemaking that some additional time may be appropriate to relieve the burden on companies. We suggest that the reporting date for maintenance and nonattainment areas be changed from April 15 to June 1. (IEUAWG)(NiS)

*Response:* The department has changed the reporting date in the draft rule for final adoption for sources located in maintenance and nonattainment counties to July 1. All sources required to submit an emission statement will have the same due date of July 1. The July 1 reporting date is consistent with the recently issued federal Consolidated Emissions Reporting Rule (CERR) (40 CFR 51, Subpart A) which requires the department to submit point source emissions data to U.S. EPA seventeen (17) months following the end of the reporting year.

## **HAZARDOUS AIR POLLUTANT REPORTING**

*Comment:* The rule should not be changed from its existing form. The existing rule satisfies the requirements of determining emissions for purposes of calculating Title V emissions fees. Additional information is not required to be collected by Indiana because it is being collected by the federal government in connection with developing hazardous air pollutant standards and national emissions standards for hazardous air pollutants (NESHAP) under Section 112 of the Clean Air Act and other federal laws. (BMI)(CCI)(ECC)(GCC)(HRI)(IMPA)(KFG)(QI)(RPL)

*Comment:* The rule should not be changed from its existing form because the proposed rule does not meet any of the standards necessary for the board to consider prior to adopting a rule according to IC 13-14-8-4. In the draft rule, the list of pollutants, in most cases, duplicates the pollutants that must be reported under the Toxic Release Inventory (TRI), does not specify threshold levels or *de minimis* quantities, and requires reporting down to individual sources. (BSC)

*Response:* To reduce the burden associated with reporting hazardous air pollutant (HAP) emissions at the process level, the department recommends that the board not adopt the proposed language requiring regular reporting of HAP emissions, but instead retain the proposed language authorizing the department to request HAP data as needed. The department will continue to voluntarily request HAP emissions with the emission statement to use in the inventory that the department submits to the U.S. EPA for the National Emissions Inventory.

In addition, the department has complied with the statutory standards established in IC 13-14-8 and also with the additional requirements for proposing a rule found in IC 4-22-2 and IC 13-14-9.

*Comment:* We support the department's stated purposes for the rule, public protection and right-to-know. (IEUAWG)(NiS)

*Comment:* We support the department's effort to revise this rule. (GEP)

*Comment:* We generally support rules that require sources to report emissions of regulated air pollutants so that the department can collect Title V permit fees, establish correlations between air quality and emission levels, evaluate trends in point source emissions, and in some cases project air quality impacts. An annual emission report is a reasonable tool for collecting this information. However, we cannot support a statewide emission reporting rule, like the proposed amendments that require reporting a wide range of emission related information in great detail every year or every three years for FESOP sources. Instead of broad amendments to the rules, the department should tailor the changes to achieve a more focused objective. (ELC)

*Response:* The department recommends that the board not adopt the proposed language requiring regular reporting of HAP emissions, but instead retain the proposed language authorizing the department to request HAP data as needed. An analysis of FESOP emissions indicates that they are a small portion of the emissions inventory.

*Comment:* The department's proposal to increase the reporting burden of stationary sources is unnecessary given the dramatic improvements in air quality observed throughout the United States over the past 20 years. Additional emissions data and new mechanisms appear to be unnecessary for continued improvement and may be harmful in the current slowing and contracting economy. (FC)

*Response:* Air quality has improved over the past twenty (20) years for VOCs and PM pollution. Many HAPs are a subset of VOC and PM and are targeted in the Clean Air Act Amendments of 1990 for reduction. The department has revised the draft rule for final adoption to reduce the cost of HAP reporting.

*Comment:* Because the emission reporting rule will impose a substantial burden on more than fifteen hundred (1500) sources in the state on an ongoing basis (annually for the Title V sources), we believe it is imperative for the department and other environmental policy makers to periodically evaluate how well the rule is serving public policy needs and meeting program objectives. The department should be required to issue a periodic report to the Air Pollution Control Board and the Environmental Quality Service Council. (ELC)

*Response:* The department recommends that the board not adopt the proposed broad FESOP applicability requirement and recommends to change applicability thresholds for sources located in nonattainment counties which reduces the number of sources subject to the emission reporting rule. The department provides reports to the Air Pollution Control Board and the Environmental Quality Service Council on a regular basis and on specific topics when requested.

*Comment:* A primary concern is that this rule does not appear to address any specific environmental problem, but instead merely creates a burden on the regulated entities without any focused problem that is being addressed or any positive environmental benefits.  
(BMI)(CCI)(CGCU)(CTE)(ECC)(GCC)(HRI)(IC)(IMPA)(KFG)(QI)(RPL)

*Response:* Citizens, industry, and government all benefit from emission data. Emissions information increases knowledge of the levels of pollutants released to the environment and the potential pathways of exposure, thereby improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make better-informed decisions on matters such as where to work and live; enhances the ability of corporate leaders and purchasers to gauge a facility's potential environmental liabilities; and assists federal, state, and local authorities in making better decisions on acceptable levels of toxics.<sup>1</sup> U.S. EPA's National-Scale Air Toxics Assessment and the department's ambient air monitoring indicate that there are high levels of HAPs in Indiana's air that warrant further investigation and analysis.

*Comment:* The additional data sought is available from the facilities' toxic release inventory (TRI) submissions. The information filed in the TRI program would provide the department with the information it has indicated it needs to meet the three goals stated in the second notice of comment period published in February 1, 2001, Indiana Register (24 IR 1462).  
(BMI)(CCI)(ECC)(GCC)(HRI)(KFG)(QI)(RPL)

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<sup>1</sup>Economic Analysis of the Final Rule to Modify Reporting of Persistent Bioaccumulative Toxic Chemicals Under EPCRA Section 313, Economic and Policy Analysis Branch, Economics, Exposure and Technology Division, Office of pollution Prevention and Toxics, U.S. EPA, October 1999, Page 6-1.

*Comment:* The department, by way of this proposed rule, is requesting new information on HAPs emissions that is already provided to the department in TRI reports which have been required on an individual basis since the mid 1980's. Data submissions under TRI take a significant amount of time and effort so why not utilize this database and through statistical extrapolation provide the necessary data on hazardous air pollutant emissions. (FC)

*Comment:* The department stated it is undertaking this rulemaking because of a desire to provide public access to actual emissions of HAPs. The department, U.S. EPA, and the public already have this information from other required reports that are publicly available. (NiS)

*Comment:* We encourage the department to fully assess information sources such as the TRI data and the EPA National-Scale Air Toxics Assessment (NATA) information to identify priorities in the state, then focus collection of more detailed information from an individual source or from a small group of sources to address the issue. (ELC)

*Response:* The department has assessed the information in data sources such as TRI and NATA to identify priorities in Indiana in "Indiana's 5-Year Hazardous Air Pollutant Strategy: A Report to the Environmental Quality Service Council" dated December 31, 2002. The department recommends that the board not adopt the proposed language requiring regular reporting of HAP emissions, but instead retain the proposed language authorizing the department to request HAP data as needed for identified priorities.

*Comment:* We question the benefits to be obtained from the requirement to report emissions of HAPs. The department should defer to the technology based standards and the residual risk standards established by Congress under Section 112 of the CAAA and should not attempt to duplicate efforts or to place Indiana industries at a competitive disadvantage as compared to competitors in other states. (NSC)

*Response:* Although the department is now recommending a different mechanism for obtaining HAP information, it is important to note that the U.S. EPA relies on state submitted information to develop emission inventories used in developing the residual risk program.

*Comment:* This amendment is very burdensome because it essentially requires a facility to report information already provided to the department as part of the FESOP permit application. Rule language in 326 IAC 2-8-3 requires sources to describe all emissions of regulated air pollutants emitted from any emission unit and any additional information related to the emissions of air pollutants "as is sufficient to verify which requirements are applicable to the source". So far, in Indiana, FESOP holders have been given essentially the same type of compliance requirements as Title V holders and this rule appears to be another example of this trend. (FC)

*Comment:* We request clarification on the reporting obligations of FESOP sources stated at 326 IAC 2-6-4(b) and clarification for FESOP sources which are limited to less than one hundred (100) tons per year of VOCs in their permit. Does this FESOP limit on VOCs obligate a source to

report emissions of organic HAPs on the list in the rule, that by definition, are VOCs?  
(CGCU)(CTE)(IC)

*Response:* The department recommends that the board not adopt the proposed broad FESOP applicability requirement, therefore the department has also deleted the requirement for FESOPS to report only those pollutants for which the sources have enforceable limits, 326 IAC 2-6-4(b) in the draft rule.

*Comment:* The department should be required to justify the HAPs emissions quantification effort for only stationary sources. The department indicated the majority of HAP emissions come from mobile sources, yet this rule will only obtain information from stationary sources and no information from mobile sources. (CIN)(IEUAWG)(NiS)

*Comment:* The proposed rule leaves out mobile sources. However, it appears one of the conclusions it has drawn is that point sources are causing a need for future control strategies and policies to minimize public health risks from exposure to these air toxic chemicals. To date this rule is the first time where this conclusion by the department was discussed as the rationale for the need for this additional emission reporting. (FC)

*Comment:* The lack of justification for such detailed reporting requirements is highlighted by the department's statement that "reasonably accurate methodologies exist to estimate emissions from mobile sources and small stationary sources" that account for seventy percent (70%) of hazardous air pollutant emissions while major stationary sources account for about thirty percent (30%) of such emissions. (APG)

*Response:* The department recommends that the board not adopt the proposed language requiring regular reporting of HAP emissions, but instead retain the proposed language authorizing the department to request HAP data as needed. The department already estimates HAP emissions from on-road mobile, non-road mobile, reporting point sources and stationary area sources annually for submittal to U.S. EPA. This rule was written to address what stationary point sources are required to report to the department, not what the department is required to report to U.S. EPA. Those requirements are detailed in the federal Consolidated Emissions Reporting Rule.

*Comment:* If a new rule is adopted, we do not support the extension of the Clean Air Act Hazardous Air Pollutant List to include sulfuric acid and hydrogen sulfide. EPA was unable to justify the addition of these two chemicals for HAPs purposes. (BSC)(CCI)

*Comment:* If sulfuric acid mist is added, then hydrochloric acid should be changed to hydrochloric acid mist (or aerosol) to be consistent in the rule. Has the department looked at the fate in the environment of sulfuric acid and hydrogen sulfide to see if they meet the same criteria that the other chemicals included did? (NSCC)

*Comment:* We are concerned with the proposal to add reportable pollutants to the proposed list. The second notice of comment period went to great lengths to justify the expansion of the list from



six (6) criteria pollutants to sixty-four (64) reportable pollutants. It seems that if the criteria utilized to develop the proposed list are abandoned by the agency and other criteria are adopted in a piecemeal fashion, legitimate arguments could be made that many of the compounds proposed should be eliminated. (IPC)

*Comment:* We object to the inclusion of pollutants that have not been previously listed unless the department can show just cause why those pollutants should be included. We strongly oppose any expansion of the list of pollutants that have not been contained in previous public comment during an official public comment period prior to the final adoption of this rule. (CGCU)(CTE)(IC)

*Response:* The department has evaluated the inclusion of sulfuric acid and hydrogen sulfide in the list of pollutants to report. These two chemicals did not meet the original criteria used to develop the proposed list and the department has not included them in the draft rule for final adoption.

*Comment:* If a new rule is adopted, the department should perform a detailed economic analysis of this proposed rule comparing the anticipated costs to the expected environmental benefits. (BMI)(BSC)(CCI)(ECC)(GCC)(HRI)(IMPA)(KFG)(QI)(RPL)

*Comment:* The department has not demonstrated that it has considered the compliance costs of this rule or that those costs are justified. The proposed rule would greatly increase both the number of facilities reporting under 326 IAC 2-6 and the list of reportable chemicals and there will be immediate costs to affected companies. In a competitive economy, state-specific programs are particularly undesirable to businesses because unlike the uniform requirements of federal programs, they impose costs not experienced by competitors in other states. (CIN)(IEUAWG)(NiS)

*Comment:* The department's fiscal impact analysis should specifically address the level of detail in the proposed rule. (APG)

*Response:* The department has prepared a fiscal impact analysis on the proposed rule and the draft rule for final adoption that addresses the costs associated with each rule. Based on the draft rule for final adoption the department has estimated that the additional emission information request could cost anywhere between \$0, if the department does not request any HAP emission estimates, and \$676,532, the maximum amount if the department were to request HAP emission estimates from all sources. Based on the draft rule for final adoption there are significant savings due to sources that are currently required to submit an emission statement and have been exempted in the draft rule for final adoption, estimated at \$558,148.

*Comment:* There are significant unanswered technical difficulties for facility emission reporting of the additional chemicals. The department's desired inclusion of sixty additional chemicals, including fifth-eight (58) HAPs, is not a simple matter. Assuming the emission information is even available for these sixty (60) additional chemicals, this addition represents approximately a ten fold increase in information required. Initial estimates are that this will require a minimum of an additional five-tenths (0.5) man-hour per chemical per emission point just to revise a company's i-STEPS pages, assuming

that there is an emission factor available. Companies already report the emissions of these chemicals (or lack thereof) as part of their TRI submittals on a plant-wide basis. (CIN)(IEUAWG)(NiS)

*Response:* The department has not included the provision to require regular reporting of HAP emissions in the draft rule for final adoption and will rely on the proposed additional information request authority to obtain HAP data as needed. If necessary, the department will provide guidance on estimating HAP emissions when the department requests it.

*Comment:* If a new rule is adopted, the department should exclude from the requirements of this rule those sources that have received a permit approval that included the department HAPs assessment procedure as part of the department application review process. The department has had a policy for several years to perform a modeling evaluation of HAPs emission impacts from applicants for new or modified emission sources and strongly encourages alternate emissions configurations or process modifications so that impacts are below the department's levels of concern before issuing the permit. The presumption is that the department would have already evaluated the risk from the source prior to granting the permit and found it not to be of concern. (CIN)(IEUAWG)(NiS)

*Comment:* Industries or specific sources of HAPs emissions, which have been determined not to be a significant source of HAPs emissions or not pose a significant risk from HAPs impact, should be excluded from the HAP reporting requirements of this rule. (CIN)(IEUAWG)(NiS)

*Response:* The department currently requires an assessment of new sources for all criteria pollutants as well as HAPs. However, this initial assessment does not provide the opportunity to correlate emissions to actual monitoring data at a later date. It does not provide any information about pollutant trends for future planning efforts. It cannot be used to calculate the impact of multiple sources. All of these analyses can only be accurately accomplished using actual emissions. The department has evaluated the risk associated with these pollutants using the best tools available, but risk analysis for many of these pollutants of concern is in the early stages of development and more information will be required.

*Comment:* Current HAPs emissions reporting requirements imposed by other regulatory programs should be sufficient to render unnecessary the added burden of reporting HAPs under 326 IAC 2-6. There is substantial overlap between the HAPs emissions information to be submitted to the department under the proposed rule and the Toxic Release Inventory (TRI) reports already submitted to the department. TRI reports provide a wealth of facility and chemical information, specifically intended to provide regulatory agencies with tools to evaluate risk and assess the effectiveness of regulatory programs. The reporting formats for the two programs are very different, and facilities would not be able to transfer the information from one set of reports to the other. This implies significant multiplication of facility effort to satisfy the obligations of separate, substantially redundant regulatory programs. (CIN)(IEUAWG)(NiS) *Comment:* The Indiana Manufacturing Association (IMA) continues to be concerned with the broad scope of the rule and the potential burdens it may

place on the manufacturing community. Numerous changes have been discussed, and we will monitor these possible changes and discuss them in work group sessions. (IMA)

*Comment:* The proposed rule is over broad, establishing a reporting scheme that is insensitive to differences in facility operations, location, or risk. The proposed rule would impose the same reporting obligations on all affected entities, regardless of the nature of their operations or their location. The department has apparently not attempted to match emission reporting requirements for specific chemicals with specific facilities likely to emit those chemicals, or with facilities operating in a part of the state where those chemicals are of concern. Annual emissions of those HAPs presenting the highest potential for concern; mercury, arsenic, and dioxins for coal fired plants, and nickel for oil fired plants, are already reported under other regulatory programs including TRI. (CIN)(IEUAWG)(NiS)

*Comment:* If the department is not satisfied with the emission information already supplied by facilities and others, they should use the already supplied process throughput information to make emissions estimates then proceed with a more limited and targeted information collection requests. Process throughput information from major sources is already supplied to the department and other regulatory agencies. Therefore, the department should use the available information to make the initial assessment of HAPs emissions for industries as well as the gasoline stations, then proceed with a targeted information collection request from specific affected facilities with large quantities of emissions of concern. (CIN)(IEUAWG)(NiS)

*Comment:* If a new rule is adopted, the proposed rule should utilize the insignificant activity thresholds for determining the level for which to report hazardous air pollutants. The department has proposed an emission threshold for HAPs of one-hundredth (0.01) ton per year. This emission reporting level is below any accurate measurement technique and is far less significant than can be of a concern to any interested party. (BMI)(BSC)(CCI)(ECC)(GCC)(HRI)(IMPA)(KFG)(QI)(RPL)

*Comment:* If a new rule is adopted, the *de minimis* levels for triggering the reporting requirements are too low and should be revised to a level more consistent with the levels established for other program areas or the chemical's risk. (CIN)(IEUAWG)(NiS)

*Comment:* The lower the required reporting levels, the less accurate the data are likely to be and, therefore, less useful to the department. The proposed *de minimis* reporting level for HAPs of one-hundredths (0.01) ton or twenty (20) pounds per year seems to be arbitrary, unreasonably low, and likely to produce inaccurate data. A reporting level based on usage of at least one drum of material per month would seem to be more reasonable. There should be a technically reasonable basis for establishing the *de minimis* levels. (APG)

*Comment:* Appropriate *de minimis* levels for reporting HAPs are those levels contained in the listing of insignificant and trivial activities (326 IAC 2-7-1(21) and 326 IAC 2-7-1(40)). A second option could be the Pennsylvania reporting level that emissions below five-tenths (0.5) ton per year (tpy) of individual HAPs need not be reported except for certain identified HAPs that have lower thresholds such as mercury and lead at one-hundredths (0.01) tpy. (NSC)

*Comment:* We recommend using the Occupational Safety and Health Administration (OSHA)

time weighted average (TWA) exposure limit to group the chemicals for threshold reporting limits. The TWAs set limits to what level, normally in the air, to which employees can be exposed without adverse affects in a ten (10) hour day during a forty (40) hour work week. We propose a tiered system as follows:

TWA of chemical (parts per million)	Reporting threshold (tons per year)
0.1 or less	0.01
1 to 0.2	0.1
10 to 1.5	1.0
100 to 9	5.0
>100	10.0

For those chemicals without a TWA, the department would have to assess the public health risk and put it into one of these groups. (NSCC)

*Comment:* The most critical issue yet to be addressed by the workgroup is the development of reasonable reporting thresholds for the reportable compounds. The proposed threshold of twenty (20) pounds is not a reasonable level for the majority of the proposed compounds. (IPC)

*Comment:* Kimball does not have the ability to measure either criteria pollutants or HAPs at one-hundredths (0.01) ton level of accuracy. This reporting threshold is far lower than the federal reporting threshold for TRI for most chemicals. Certifying the emissions at a one-hundredths (0.01) ton per year (divided into quarters) threshold is not feasible. We would like to propose a much more reasonable threshold of two and five-tenths (2.5) tons per year (half of the federal TRI threshold) for most chemicals. The thresholds for lead, mercury, persistent bioaccumulative toxic chemicals (PBTs) and dioxin chemicals should mirror the new lower TRI levels. (KI)

*Comment:* We recommend that the department establish reporting thresholds that are more meaningful to the regulated community than the one-hundredths (0.01) ton previously supported. Such reporting thresholds could be tiered, for example, some pollutants could have lower reporting thresholds than others on the list. Another approach would be that the department could focus the reporting of specific HAPs emissions by source category. This approach has the end effect of allowing the department to collect more meaningful data from the regulated sources about emissions from their processes. (CGCU)(CTE)(IC)

*Comment:* The concept of the minimum reporting level for any one listed pollutant emitted by a significant emission source has been widely discussed. The final rule could require reporting of actual emission rates of criteria pollutants down to five (5) tons per year and HAPs down to one (1) ton per year. Emissions lower than these levels could be acknowledged through a flagging mechanism which would enable the department to seek additional information from a source if needed. (ELC)

*Comment:* We do not oppose the zero pounds threshold for mercury, lead, and dioxin, but continue to believe that a minimum reporting level of one-hundredths (0.01) ton for all the other pollutants will provide the department with very little additional information that is useful, while imposing a large burden on the regulated community. We reiterate the request submitted in earlier comments to establish a minimum reporting level at five-hundredths (0.05) ton. We believe this a reasonable *de minimis* cutoff amount for reporting source wide emissions of a pollutant. (GEP)

*Response:* The department has not included the provision to require regular reporting of HAP emissions in the draft rule for final adoption and will rely on the proposed additional information request authority to obtain HAP data as needed.

*Comment:* Some Chemical Abstract Service (CAS) numbers may be misleading, such as regarding tons of “HCl” emissions. The CAS number for concentrated hydrochloric acid, a mixture that is mostly water, was listed in the draft rule. Similar confusion exists for hydrogen fluoride (hydrofluoric acid). (IEI)

*Response:* The department has revised the draft rule for final adoption and is limiting HAP emissions reporting to the proposed additional information request authority and, therefore, has deleted hydrochloric acid and hydrogen flouride from the list of pollutants to be reported annual or triennially in the emission statement.

*Comment:* The xylene as emissions is confusing. The meta, para, and ortho forms are listed to be reported and a repeat of the tons as the mixture of the isomers of xylene. Why not report just xylene with the ratio of isomers if available? (IEI)

*Response:* The department has revised the draft rule for final adoption and is limiting HAP emissions reporting to the proposed additional information request authority and, therefore, has deleted xylene from the list of pollutants to be reporting annual or triennially in the emission statement.

## **REPORTING REQUIREMENTS**

*Comment:* If a new rule is adopted, we strongly support the use of “emission groups” for reporting purposes, as suggested by the department during the August 14, 2001 public meeting. (BMI)(CCI)(ECC)(ELC)(GCC)(HRI)(IPC)(KFG)(KI)(QI)

*Comment:* We request confirmation that grouping of “emissions units” for reporting purposes, although in general a good idea, will not result in aggregating emissions to trigger reporting thresholds, and will allow grouping at the discretion of the source? (BSC)

*Response:* This rule defines emissions group as “any combination of like emissions units or processes from a single building, adjacent buildings or areas.” In the requirements section of this rule there is a reference to “insignificant” and “trivial” activities, which are already not required to be reported. This section would limit the department from aggregating emissions to artificially trigger the reporting threshold. Any grouping will be left to the discretion of the source, but will be reviewed by

the department staff for appropriateness.

*Comment:* If a new rule is adopted, we object to the requirement for stack-specific information. The department has collected detailed stack information under many requirements, such as Title V operating permit applications and state permits to construct. To require sources to furnish this information a second or third time is not justified. A source should not be required to continually submit process information over and over in order to simply make data collection efforts by the department easier or program specific when the department currently has the needed information in its files. (BMI)(BSC)(CCI)(ECC)(GCC)(HRI)(IMPA)(KFG)(QI)

*Response:* Due to the nature of the reporting program this should be a one-time data entry, not requiring an annual update. Since the department is required to report these elements to U.S. EPA, the reporting sources should be able to review and update that information as needed.

*Comment:* If a new rule is adopted, the reporting should allow reporting on emissions from stacks, not require reporting from processes or emission units only. It is difficult, and some cases impossible, to collect data for several emission units that vent through a common stack, and no legitimate purpose exists for requiring such detailed information. (RPL)

*Comment:* None of the stated uses of data would require the proposed reporting of stack parameters and emissions information at the emission unit/process level. All of the stated uses of the data could be accomplished with existing stack default values and annual plant wide emission estimates. (APG)

*Comment:* If a new rule is adopted, we strongly object to any requirement to report emissions information on a stack basis. We cannot tie the emissions to a specific stack. There is no feasible way to distinguish which stack is receiving what portion of emissions. Knowledge of the total quantity of the emissions from the plant should satisfy all public health and environmental concerns. (BMI)(KFG)

*Response:* Emissions are not required to be reported on a stack basis. Emissions are required to be reported at the process level, and those processes are then linked to a stack or stacks. U.S. EPA requires reporting emissions at the process level and the associated stack parameters. Emissions allocated to particular stacks is very important when modeling the impact of a facility in its immediate area.

*Comment:* If a new rule is adopted, we object to the requirement to provide exit gas temperature and flow rates because the information is not available and difficult to obtain for many stacks and the information would serve no useful purpose. (BSC)(CCI)(ECC)(GCC)(NSC)(QI)

*Response:* U.S. EPA requires that this information be reported by the department. Sources have already provided much of this information, and sources may continue to use default parameters until better information becomes available.

*Comment:* If a new rule is adopted, we object to the requirement for stack-specific longitude and latitude information because the stack information from the source is sufficient for any reasonable purposes. (CCI)(ECC)(GCC)(IMPA)(QI)(RPL)

*Comment:* The department indicated it would assist sources in obtaining Universal Transverse Mercator (UTM) coordinates for the stack locations that are required by the proposed rule. We recommend that the department provide more detailed information about this commitment, and include this commitment in the final rule language. (NiS)

*Response:* U.S. EPA requires that this information be reported by the department. The department staff will continue to support sources trying to improve their emissions statement submission. The department can help by directing sources to the growing number of geocoding websites that provide an estimated latitude and longitude.

*Comment:* If a new rule is adopted, the department should not require reporting of maximum design capacity or maximum nameplate capacity for emissions units because this information is often very difficult to determine and it is unnecessary for a program that is concerned with actual emissions. The term “nameplate capacity” simply does not apply to our operation. (BSC)(ECC)(IMPA)(KFG)(RPL)

*Response:* U.S. EPA requires that this information be reported by the department. If nameplate capacity is unavailable, then design capacity or permit limit is acceptable.

*Comment:* If a new rule is adopted, the proposed rule fails to address how fugitive emissions, such as miscellaneous clean-up solvents, are to be reported. These emissions have no stacks and thus no stack information. The department should clarify that fugitive emissions may be reported on a plant-wide basis or may be grouped together in a logical manner as determined by the source. (BMI)(CCI)(ECC)(HRI)(QI)

*Response:* Rule language will be presented to the Air Pollution Control Board that fugitive emissions may be reported on a plant wide basis or grouped together in a logical manner.

*Comment:* If a new rule is adopted, we object to any requirement for pre-approval of emissions factors and site specific emissions factors. Emissions factors derived by a source or from documented environmental sources should be allowed for use unless determined by the department that they are not representative of the process emissions. (BSC)(CCI)(ECC)(GCC)(NSC)(QI)

*Comment:* The i-STEPS program uses presumptive emission factors from EPA. These factors do not necessarily accurately represent the true emissions from sources. To prevent inappropriate and incorrect conclusions by the department that could lead to inappropriate regulation of sources, companies may in fact be forced to spend considerable funds to develop better emission factors as a result of this rule change. U.S. EPA approvals for emissions estimates for a state required program is unnecessary and should be deleted. (CIN)(IEUAWG)(NiS)

*Comment:* We appreciate the continued discussion regarding the use of “accepted emission factors”. (IPC)

*Comment:* With the proposed rule language, the department has not fully addressed concerns about the available emission factors. Factors suitable for purposes of developing an accurate emission inventory are not available for all of the listed pollutants for all of the source categories affected by this rulemaking. (CGC)(CTE)(IC)

*Comment:* We still object to the requirement that site specific emission factors and other emission estimation methodologies be approved by the department and U.S. EPA. This is a state rule, not a federal rule. We request that the language be changed to the “department or U.S. EPA”. Furthermore, we do not understand if the department intends a difference between “accepted” and “approved”. Assuming it does not, we request that the department change “approved” to “accepted”. (GEP)

*Response:* The rule language (326 IAC 2-6-4(e)(5)(iv)) has been changed to “other documentable methodology accepted by the department and the U.S. EPA.” Unless the department objects to an estimating methodology, it is acceptable. The emission reporting rule is part of the Indiana state implementation plan and the rule must be approved by U.S. EPA.

*Comment:* The available emission factors to accurately report HAPs emissions have not yet been developed nor approved via certification by the department or by the U.S. EPA for industry wide use. In addition, there are still many industry processes with no approved emission factors applicable to their processes. In light of the uncertainties in estimating emissions, the effect of the proposed rule would be minimal to helping arrive at point source figures for determining the effect on health risks from exposure to the air toxic chemicals. (FC)

*Response:* The department has not included the provision to require regular reporting of HAP emissions in the draft rule for final adoption and will rely on the proposed additional information request authority to obtain HAP data as needed. The department recognizes the low quality or lack of emission factors for some processes. If necessary, the department will provide guidance on estimating HAP emission when using the additional information requests authority of the rule.

*Comment:* The amended rule must recognize the inherent limitations of the usefulness of gathering information at a high degree of “precision”. For example, if a source reports approximately fifty (50) pounds of methylene chloride emission from ten (10) emission units, and all those emissions are controlled by the same device and emitted through the same stack, the value of the higher precision is minimal in comparison to the additional cost to determine the emissions. (ELC)

*Response:* The rule allows sources to group similar emission unit for reporting emission estimates.

*Comment:* If a new rule is adopted, the department should accept as timely a submittal made



through private carrier such as United Parcel Service (UPS), Federal Express or other delivery services. A private carrier delivery is in essence a contract between the company and a carrier. Limiting a company to using only the U.S. Postal Service, which is a private organization, unjustly restricts a company's ability to make a timely submittal. (CIN)(IEUAWG)(NiS)

*Comment:* We request that the department add another acceptable delivery method for the emission statement; hand delivery to the department, including any Indiana Department of Environmental Management regional office. (GEP)

*Response:* The department agrees and the draft rule for final adoption has been changed to allow emission statements to be submitted by private carrier services if records are maintained of the date of receipt and delivery by the service. Hand delivery to the department's office in Indianapolis has always been acceptable. The emission statements submitted by sources are processed by staff at the Indianapolis office to reduce the chance of lost forms.

*Comment:* In May 2000, the U. S. EPA issued a proposed rule on Consolidated Emissions Reporting. Since these rules have not been finalized, at a minimum, it would seem premature and an unnecessary burden to go forward on regulations that are not in place or being implemented on a federal level. (FC)

*Comment:* We continue to believe that all interested parties would be best served by waiting on federal consolidated emissions reporting standards to be implemented. The notion of waiting on the federal provisions is particularly relevant, given the news that work is now being done on the development of those standards. (IPC)

*Comment:* The proposed rule should not be brought to the Air Pollution Control Board for final adoption until after the federal consolidated emission reporting rule (CERR) is finalized so as not to have potentially conflicting regulatory requirements between the federal and state rule. (CIN)(IEUAWG)(NiS)

*Response:* The final CERR was published on June 20, 2002. Where the CERR allows for reduced reporting requirements, the draft rule for final adoption has been modified.

*Comment:* We suggest that 326 IAC 2-6-4(g) be revised to allow for mutually agreeable deadlines for responding to the department's request for additional information as an alternative to the sixty days. For example, add the language "or as otherwise agreed upon by the source and IDEM". (GEP)(NSC)

*Response:* The draft rule language has been revised to provide that a source may ask for an extension of time to report emissions as a result of a request for additional information.

*Comment:* We support the department's efforts to develop a certification statement and signature requirement which reflect the intent of the emission reporting rule that clearly states that the data submitted in an emissions statement is a "reasonable estimate" using data readily available to the

preparers of the report. Further, signature requirements should not extend to the Title V responsible official, but rather should go the “authorized individual” as required under the current rule language. (CGCU)(CTE)(IC)

*Response:* It is important to have the responsible official sign the certification statement and the department has not modified the draft rule to require certification by the “authorized individual.” It is important for a responsible official to know what the source’s environmental impact is. The Part 70 permit rules state that any document required by a Part 70 permit needs to include certification by a responsible official (326 IAC 2-7-6(1)). The emission statement is a requirement of the Part 70 rules (326 IAC 2-7-5(3)(C)(iii)).

*Comment:* The last sentence of 326 IAC 2-6-4(e)(1) should be deleted since this provision is reiterated in 326 IAC 2-6-5. This sentence adds no value to the elements of the authorized individual’s certification. (ELC)

*Response:* The last sentence of 326 IAC 2-6-4(e)(1) has been deleted.

*Comment:* The proposed rule 326 IAC 2-6-1(d) begins with “Except for section 4(f) of this rule,...”. We believe that the correct reference is section 4(g), not 4(f). In addition, for the sake of clarity, we suggests that the introductory be changed to read “Except as provided in section 4(g),...” (GEP)

*Response:* The draft rule for final adoption does not include exemptions as specified in 326 IAC 2-6-1(d) of the proposed rule, because the applicability thresholds are not the same as those in the proposed rule and the exemptions are no longer needed.

*Comment:* The term “control device” is not defined in 326 IAC 2-6, but is used four times in the proposed rule. We suggest that the department use a synonymous term that is defined at 326 IAC 1-2-3, “air pollution control equipment”. (GEP)

*Response:* “Control device” has been changed to “air pollution control equipment”.

*Comment:* The department proposes to define “control efficiency” to mean the percent of emissions routed to a control device. We believe this definition should be consistent with the approach the department has proposed for the definition of “capture efficiency” in which the phrase “the percent of the total emissions captured” is used. (GEP)

*Response:* The word “total” has been added to the definition of “control efficiency”.

*Comment:* The term “air stream” is used in the definition of “control equipment identification code” when the stream that is being controlled may not contain any air. We recommend that the term “air stream” be changed to the more generic “gas stream”. (GEP)

*Response:* “Air stream” has been changed to “gas stream” in the definition of “control equipment

identification code”.

*Comment:* We do not understand the purpose of the phrase “during the corresponding period of the process” in the definition of “downtime”. We believe that the phrase “the process it is controlling is in operation” adequately covers the point and that “during the corresponding period of the process” should be deleted. (GEP)

*Response:* “During the corresponding period of the process” has been deleted from the definition of downtime and “the process it is controlling is in operation” has been added.

*Comment:* Both 326 IAC 2-6-4(e)(3)(A) and (G) use the phrase “for each emission unit”. However, the introductory language to (e)(3) already refers to “each emission unit”, so the later references in (A) and (G) are redundant and confusing. Therefore we recommend that the phrase “for each emission unit” be deleted from (e)(3)(A) and (G). (GEP)

*Response:* “For each emission unit” has been deleted from 326 IAC 2-6-4(e)(3)(A) and (G).

*Comment:* In 326 IAC 2-6-4(e)(3)(C) and (F), the proposed rule refers to 326 IAC 10-3 and 10-4. However, to our knowledge, these rules do not exist. The department needs to correct or delete these references. (GEP)

*Response:* 326 IAC 10-3 and 10-4 are rules that were adopted to implement the federal nitrogen oxides state implementation plan (NOx SIP call). These rule were effective September 16, 2001. The department has deleted the references to 326 IAC 10-3 and 10-4 in the draft rule for final adoption since the CERR requires the department to submit design capacity and maximum nameplate capacity without restriction on types of sources.

*Comment:* We support the proposed rule language that does not require stack testing. This is consistent with the purpose of the rule, which is to provide estimates of actual emissions. (GEP)

*Response:* The department concurs.

## **CONFIDENTIAL INFORMATION**

*Comment:* Annual process weight information can be used by competitors in an industry to learn marketing information that would never be shared. The confidentiality of this information needs to be protected and access to it limited. How is the department protecting this information from becoming public or being accessed by unauthorized personnel within the agency? (NSCC)

*Comment:* One aspect of the proposed rule (326 IAC 2-6-4(e)) that causes ongoing concerns is to require sources to submit production information for each emission unit or each process. For many companies, process and production information is confidential business information, and is the kind of information that companies would prefer not to disclose to anyone, even if it is provided some “protection” under state and federal confidentiality rules. (ELC)

*Response:* The department protects all confidential information by putting the information in separate folders, marking information as confidential, creating software programs that block confidential material from being reported outside the department, and keeping all confidential folders in a locked file cabinet. There are relatively new confidentiality rules (326 IAC 17.1) that list the steps necessary for claiming materials confidential and the department has recently been working closely with the public and businesses to clarify the department's procedures regarding confidential claims. If these steps are followed, then materials will be kept confidential by the department.